

Ireland can forget what happened to Pat Finucane, nor can they dismiss it from their minds. She said one way to advance the protection of defense attorneys would be the establishment of an independent investigation into the allegations of collusion in his murder.

Despite her testimony and her fears, the British government now wants to entrust the investigation of Rosemary Nelson's murder to the very agency she feared and mistrusted most, the RUC. Instead, I believe that in order for this investigation to be beyond reproach, and to have the confidence and cooperation of the Catholic community that Rosemary Nelson adeptly represented, it must be organized, managed, directed and run by someone other than the RUC. It just begs the question as to whether or not we can expect a fair and impartial investigation when the murder victim herself had publicly expressed deep concern about the impartiality of RUC personnel.

Mr. Speaker, the major international human rights groups, including Amnesty International, Lawyers Committee for Human Rights, British/Irish Human Rights Watch Committee for the Administration of Justice, and Human Rights Watch have all called for an independent inquiry. Param Cumaraswamy, U.N. Special Rapporteur on the independence of judges and lawyers, who completed an extensive human rights investigative mission to the United Kingdom last year, has also called for an independent inquiry of Rosemary Nelson's murder.

At our September 29, 1998 hearing, Mr. Cumaraswamy stated that he found harassment and intimidation of defense lawyers in Northern Ireland to be consistent and systematic. He recommended a judicial inquiry into the threats and intimidation Rosemary Nelson and other defense attorneys had received. It's hard not to wonder if the British government had taken the Special Rapporteur's recommendations more seriously, Rosemary Nelson might have been better protected and still with us today.

I express my heartfelt condolences to the Nelson family and I urge my colleagues to support the following resolution.

#### THE ENDANGERED SPECIES ACT MUST BE REFORMED

**HON. KEN CALVERT**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 23, 1999*

Mr. CALVERT. Mr. Speaker, the Endangered Species Act was originally enacted in 1973 with overwhelming support in the House by a vote of 355 to 4 and in the Senate 92 to 0. The original intent: to conserve and protect American species of plant and wildlife that are threatened with extinction, with species taken off the list when their numbers have recovered. However, during ESA's 25 years, over 1,154 animals and plants have been listed as endangered or threatened yet only 27 species have been removed from the list. ESA has protected important species, including our Nation's most prized symbol—the bald eagle which is one of the few actually removed from the list. Today, it appears as though the Fish

and Wildlife Service, especially within California, is working outside of the ESA and essentially undermining its original intent. Fish and Wildlife in California has overstepped their bounds.

As the Congressman for western Riverside County in southern California, ESA enforcement is an important issue for me and my constituents because southern California is home to one-third of all listed endangered species. I have received a large number of complaints about the overzealous enforcement of ESA from landowners, farmers, former Fish and Wildlife employees, and community leaders. Complaints have increased dramatically in the last year compared to what I was hearing when I was first elected 6 years ago. A lot of my colleagues have been asking me about Fish and Wildlife's questionable enforcement of the ESA in southern California and in my district. I am here to share some clear examples of Fish and Wildlife's outrageous conduct in their enforcement of the ESA. Riverside County led the charge in working with the Federal Government to comply with the ESA, and had the original Stephen's kangaroo rat plan which ultimately took 8 years to get approval and cost over \$42 million. Later on, Riverside County formed the Western Riverside County Multiple Species Habitat Conservation Plan Advisory Committee in order to ensure a strong working relationship with conservation agencies and Fish and Wildlife.

Yet, it seems to be a cardinal rule in dealing with the Fish and Wildlife Service that "No Good Deed Goes Unpunished." Riverside County, the Riverside County Habitat Conservation Agency, several cities, and Fish and Wildlife all signed a planning agreement which laid out a conservation plan for the entire western half of Riverside County. Under that agreement, Fish and Wildlife would be required to provide the benefits and the ultimate cost of the plan within 6 months of signing the agreement. Now, 2 years later, Fish and Wildlife is refusing to provide this information to the planning agency which they had contractually agreed to do. This was a bad faith effort on the part of Fish and Wildlife.

Specifically, there are two recent cases where Fish and Wildlife has shown how destructive they can be in southern California. The first case is the Delhi-sands flower-loving fly. A handful of flies were discovered at the proposed site for the San Bernardino County hospital. Fish and Wildlife ordered the county to move the building 300 feet, at a cost of \$3.5 million. That's about \$10,000 a foot. The Galena Interchange, a freeway construction project in my district is being held hostage by this fly. The Galena Interchange is not an expansive new highway program—we are not talking about building the Golden Gate Bridge. It's a simple project connecting Interstate 15 to Galena Street and it received \$20 million in Federal, State, and local funds last year for a desperately needed project. After the plans were designed and the funds allocated, Fish and Wildlife now claims the county needs to establish a preserve for the Delhi-sands flower-loving fly. Fish and Wildlife wants as many as 200 acres of the Inland Empire's priciest industrial land for habitat mitigation. Two hundred acres could cost as much as \$32 million; \$32 million for a \$20 million project. On top of

all of this, not one fly has been found in this area. Apparently, the Branch Chief of the Carlsbad Fish and Wildlife Office heard the buzz of the fly, but did not see it, and now wants \$32 million. In testimony before the Riverside County Board of Supervisors, this person said—and I quote—" . . . if you hear a car down the street that's your favorite model, you kind know the engine sound and you know that it's the car that you like—so you know for someone that studies this sort of species you get a feel for the noise." This is ludicrous. Fish and Wildlife is using Dr. Seuss methods from "Horton Hears a Who" to make policy for millions of citizens. At the very least, we should amend the ESA to require that an endangered species must actually be seen, not just heard.

The other case involves the Quino checkerspot butterfly. Once again, after poorly handling several listings, Fish and Wildlife has precipitated another crisis in southern California. Recently the Service published a "survey protocol" for the Quino checkerspot butterfly, which requires landowners to survey their property for the Quino before beginning any development. They did so less than a month before the beginning of the butterfly's very short flying season. However, Fish and Wildlife went a step further and issued a survey protocol that prohibited development of all land until at least early June 2000. The other day, in a seeming reversal of this earlier position, Fish and Wildlife is allowing surveys to be done this year. But, the Service still reserved the right to invalidate any survey due to the shortened flying season. This is like the IRS giving you your tax bill and noting that they have the right to charge you more later—which is something they have actually done and why Congress passed IRS reform legislation. Fish and Wildlife should take notice. So, the Service is allowing landowners to spend thousands of dollars to conduct a survey that they may or may not consider valid next year.

The current Fish and Wildlife problem has become so large, expensive, and harmful to our community that it cannot be overlooked any longer. In 1995, ESA costs exceeded \$325 million of Federal money. However, the cost to local and State governments was billions and billions of dollars. Taxpayer funding has increased 800 percent since 1989. This is a call to common sense. Fish and Wildlife's district offices at the very least have the responsibility to balance the rights of species with the rights of landowners and taxing citizens of the United States. Local bureaucrats are undermining Americans' desire to save truly endangered species by engaging in arbitrary and unreliable rulemaking. Our citizens and our endangered species deserve better. While we build a consensus in the Congress on how to update the Endangered Species Act, we should, at the very least, expect two things: (1) Fish and Wildlife must keep its commitments; and, (2) Fish and Wildlife should use its discretion, under the law, not as a weapon against landowners, but as a tool to help communities comply with the law.